

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

MAURA O'NEILL, AS ADMINISTRATOR OF THE  
ESTATE OF MADELYN E. LINSENMEIR,  
PLAINTIFF

V.

CITY OF SPRINGFIELD, MOISES ZANAZANIAN,  
REMINGTON McNABB, SHEILA RODRIGUEZ,  
HAMPDEN COUNTY SHERIFF'S DEPARTMENT  
AND JOHN/JANE DOES NOS. 1-5,  
DEFENDANTS

CIVIL ACTION No. 3:20-CV-30036

**DEFENDANTS, HAMPDEN COUNTY SHERIFF'S DEPARTMENT AND THE CITY OF SPRINGFIELD'S  
MOTION AND INCORPORATED MEMORANDUM OF LAW TO EXTEND SCHEDULING ORDER  
DEADLINES BY 60 DAYS**

Now come the defendants, Hampden County Sheriff's Department (hereinafter "HCSD"), the City of Springfield (hereinafter "City" or collectively "Defendants"), Moises Zanazanian, Remington McNabb and Sheila Rodriguez and, pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Rule 16.1(g), submit this Motion and Incorporated Memorandum of Law to Extend the Scheduling Order Deadlines by 60 days. The original Scheduling Order, Document 51, held that all non-expert fact discovery close on July 29, 2022. There have been three subsequent Orders that extended this deadline by approximately seven months [231 days] to March 17, 2023. Document(s) 77, 95, and 105. The Defendants have conferenced this motion with counsel for the Plaintiff who opposes this extension. The sole explanation that the plaintiff provided in that conference was that discovery has continued for 18 months and the plaintiff "wants to get on with her life."

As further detailed below, the parties have diligently conducted discovery throughout the discovery period, having exchanged more than 34,000 pages of discovery so far and conducted the depositions of 39 separate deponents, 36 of whom have been deposed by the plaintiff, without objection from the defendants (20 were HCSD deponents, 16 were City deponents). Exactly 30 days before the current discovery deadline of March 17, 2023, the plaintiff served an additional set of interrogatories and requests for production of documents on the HCSD and, just yesterday, subpoenaed another deposition of a former HCSD employee. Those discovery responses will be due on the discovery deadline of March 17, 2023. With the depositions that have currently been noticed, through the current March 17, 2023 discovery deadline, the parties will have conducted the depositions of 55 separate deponents, including nine 30(b)(6) deponents for the HCSD (six of whom have already been deposed) and six 30(b)(6) deponents for the City (four of whom have already been deposed). The defendants have already conducted three days of depositions in Burlington, Vermont and have three additional days of depositions scheduled in Burlington for March 6, 7, and 8, over which days the defendants plan to depose six witnesses. Of the approximately 55 separate deponents mentioned above, 42 of those will have been deponents produced by the defendants and deposed by the plaintiff, while the defendants, in total, will have deposed 13 deponents, most of whom are out-of-state.

It is simply not possible to fairly conclude discovery within the existing discovery deadline. First, there are currently two discovery motions still pending before the Court. Second, as detailed below, the plaintiff only recently produced signed authorizations to allow the defendants to obtain certain medical records and, in the completion of the plaintiff's deposition just this week, on February 21, 2023, the plaintiff mentioned additional medical treatment that the plaintiff's decedent received that was not previously known to the defendants. Third, there

are approximately 17 depositions still to take place, all of which have been noticed to occur before the discovery deadline, including five 30(b)(6) deponents for the City and the HCSD. Of those depositions, 11 have been noticed and scheduled by the defendants and include deponents in Burlington, Vermont, New Hampshire, and Massachusetts. Six have been noticed by the plaintiff, including the five remaining 30(b)(6) deponents and the new deponent, just noticed yesterday by the plaintiff. The scheduling of a key witness, former inmate Hayley Champagne, has been complicated by the fact that she is not able to be located. (Another disclosed witness of the plaintiff, a former inmate who the defendants wish to depose, is also indisposed at this time but hopefully will be available soon.) As detailed below, the scheduling of the deposition of the plaintiff's husband, William Painting, has been complicated because the plaintiff's counsel first informed defense counsel that they did not represent him, the plaintiff refused to accept service on her husband's behalf, and then belated plaintiff's counsel changed position and informed defense counsel they would represent him but that he would not be available on the scheduled date for his deposition in Burlington, Vermont. Furthermore, with all of the work to complete prior to the discovery deadline, the plaintiff served additional written discovery on the HCSD exactly 30 days prior to the discovery deadline.

Rushing discovery to a close, after all of the work that has been accomplished, creates a great risk that an oversight will occur and a responsive, discoverable document or information will not be produced, through inadvertence due to the pressures placed on defense counsel by the enormous amount of discovery conducted in this case. It also creates the risk that the defendants, or even the plaintiff, will be denied some key discovery because discovery was closed before it could be fairly completed. Discovery has taken a long time in this case, to be sure. The plaintiff has hired three law firms (the ACLU, Prisoners' Legal Services, and Goulston Storrs), who have

staffed this case with at least 10 different lawyers and who have sought to depose 42 different deponents. Throughout the discovery period, this case has *never* sat dormant. The parties have been working diligently and mostly cooperatively to accomplish the enormous amount of work that has been accomplished. Depositions have taken place in every month since March of 2022, with the exception of June of 2022.

The affected dates along with proposed new dates are provided as follows:

<b>Scheduling Order Event</b>	<b>Current Deadline</b>	<b>Proposed Deadline</b>
Discovery Served/Non-expert Depositions Completed	03/17/23	05/16/23
Case Management Conference	03/21/23	05/25/23
Motion to Amend the Pleadings	05/05/23	07/05/23
Plaintiff's Expert Disclosures	05/05/23	07/05/23
Defendants' Expert Disclosures	06/16/23	08/16/23
Disclosure of Plaintiff's Rebuttal Expert Disclosures	07/17/23	09/18/23
Completion of Expert Depositions	09/15/23	11/16/23
Filing of Dispositive Motions	11/10/23	1/10/24
Filing of Oppositions to Dispositive Motions	12/08/23	02/09/24
Filing of Replies to Dispositive Motions	12/22/23	02/23/24

Scheduling Order Event	Current Deadline	Proposed Deadline
Hearing on Dispositive Motions	Set by Court	Set by Court

In further support of said Motion to Extend Scheduling Order Deadlines, the Defendants state the following:

1. The Federal Rules of Civil Procedure recognize that scheduling orders exist to expedite disposition of the action and facilitate the settlement of the case. See generally Fed. R. Civ. P. 16. However, in light of how the action proceeds, the Court has discretion to enlarge those deadlines. For example, Fed. R. Civ. P. 6(b) provides that “the court may, for good cause, extend the time...with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” (emphasis supplied)
2. Upon the good-cause grounds set forth here, Defendants move for a 30 day extension of the existing discovery deadline, along with related extensions regarding dispositive motion(s) and expert discovery. Defendants’ Motion is not for purposes of delay, and is made in good faith. Defendants’ request is also reasonable in time and scope. Defendants suggest that neither party will be prejudiced by this requested extension (indeed, it may otherwise be prejudicial to continue under the current deadlines).
3. “A schedule may be modified only for good cause and with the judge's consent.” Fed. R. Civ. P. 16(b)(4). “To show good cause, a party must demonstrate the ‘deadline in the scheduling order may not reasonably be met, despite the diligence of the party seeking the extension.’ ” House of Clean, Inc. v. St. Paul Fire & Marine Ins. Co., 775 F. Supp. 2d 296, 298 (D. Mass. 2011) (quoting Tele-Connections, Inc. v. Perception

Tech. Corp., Civ. A. No. 88-2365-S, 1990 U.S. Dist. LEXIS 15507, 1990 WL 180707, at \*1 (D. Mass. Nov. 5, 1990)).

4. The Defendants have continued to diligently conduct discovery in this case which is nearing completion. However, despite best efforts, the process has been frustrated by scheduling issues, delays in producing signed authorizations, and late discovery of relevant correctional and medical records relating to the decedent which have prevented the Defendants from completion of their discovery.
5. On Wednesday, February 15, 2023, *exactly thirty days prior to the close of non-expert discovery*, at 4:35 P.M., the Plaintiff served a Second Request for Production of Documents and Second Set of Interrogatories upon the HCSD. It will likely not be possible for the HCSD to produce responses to these requests, while completing its own depositions, and preparing and producing additional Rule 30(b)(6) deponents for deposition, in addition to the five 30(b)(6) deponents (and another deponent, just subpoenaed) that have already been produced by the HCSD. *See Exhibit A.*
6. Just yesterday, the plaintiff served a subpoena for yet another deponent, former HCSD employee, Gabby Villa. *See Exhibit B.*
7. The Plaintiff's claims and request for damages necessitates the need for extensive medical and correction records so that the Defendants can properly craft a defense, consult and retain relevant experts, and assess potential settlement negotiations. On or about November 30, 2022, counsel for the Defendants and Plaintiff had a phone conference and the City then sent a general HIPAA release for the medical records of Madelyn Linsenmeir and her child, who is the sole heir. On December 7, 2022, the Plaintiff returned the releases, however, they were narrowed to only include specific

providers and were also unsigned in certain areas. On December 19, 2022, and then again December 27, 2022, the City requested that the Plaintiff address that issue and on the 27<sup>th</sup> counsel for the Plaintiff informed the City that the release would be signed. It was not until January 17, 2023, that the Plaintiff returned the executed releases. **Exhibit C.**

8. Since that date the defendants have obtained correctional facility records of Plaintiff's incarceration in Rhode Island approximately 4 months prior to her death. In those records we discovered that she had medical treatment in the year of her death at 2 separate hospitals in Rhode Island. On February 14, 2023 the Defendants requested the Estate provide a release for the newly discovered records from RI. It was not until we proposed extending discovery by 30 days that we finally had the signed release returned to us. **Exhibit D.**
9. The Defendants have been attempting to obtain the records from the decedent's incarceration in New Hampshire in July of 2018 and have yet to receive them. It is likely that more medical records will be revealed once those records are received.
10. Although the parties have worked hard to cooperate in this case, and generally have succeeded, it would be difficult to say that the plaintiff and her counsel have been as cooperative as they might have been in scheduling the deposition of the plaintiff's husband, William Painting. On January 27, 2023, Atty. Thomas E. Day contacted defense counsel with a list of deponents, asking if they would be representing any of the witnesses at deposition. *See* Affidavit of Thomas E. Day, attached hereto as **Exhibit E.** This list included the plaintiff's own husband, William Painting. *See id.* On the night of January 30, 2023, plaintiff's counsel, Atty. Daniel McFadden,

responded that they did not represent the bulk of the individuals on the list, surprisingly including the plaintiff's husband, Mr. Painting, on the list of deponents he did not represent. *See id.* The defendants then drafted a subpoena for Mr. Painting and, on February 9, 2023, the HCSD served the deposition notice and subpoena, setting the date for Mr. Painting's deposition for March 6, 2023 in Burlington, Vermont, at the Hilton Garden Inn. *See id.* The defendants attempted to have Mr. Painting served in Burlington, Vermont by the Chittenden County Sheriff, who reported that he attempted service several times. *See id.* The plaintiff, Ms. O'Neill, was at home for at least two of those visits, according to her testimony at deposition on February 21, 2023. *See id.* Her account conflicts with that of the serving deputy, but it is agreed that the interactions were not pleasant and Ms. O'Neill admitted that the serving deputy was unsuccessful in serving Mr. Painting after three attempts at his home, including two attempts where he actually spoke with Mr. Painting's wife, the plaintiff. *See id.* After all of this effort and wasted time, on the night of February 21, 2023, just minutes after the conclusion of Ms. O'Neill's deposition, during which Atty. David Milton represented Ms. O'Neill and the attempts at service were discussed, Atty. Milton emailed Atty. Day to inform him that the plaintiff's counsel now *will* be representing Mr. Painting at the deposition and will accept service for him, but that he is not available on the scheduled date, a date about which the plaintiffs had been aware for nearly two weeks. *See id.* The defendants' counsel have already made arrangements to travel to Burlington on March 6 through 8 for the depositions of Mr. Painting and several other witnesses, a fact that has been known to the plaintiff's counsel since February 9, 2023. *See id.* The HCSD reserved a



conference room for the depositions, at a cost of \$500 per day, and defense counsel have made hotel reservations in Burlington. *See id.* Atty. Milton instead offered to make Mr. Painting available on the following week. *See id.*

11. During a deposition this week, on February 21, 2023, the Plaintiff Maura O'Neill disclosed an additional medical visit in late July or early August of 2018, of which the Defendants had not previously been aware. The plaintiff has not disclosed the name of the facility, and the holder of that information, i.e. Maureen Linsenmier, is not scheduled to have her deposition concluded until February 28, 2023. More medical releases will need to be signed, and those records obtained.
12. As of the date of this filing, approximately forty-two (42) depositions have been held, many of which have lasted more than a full day, with over two-hundred (200) marked exhibits. Depositions have been conducted in every month since March of 2022, with the exception of June 2022. At least ten more depositions have been scheduled for February and March, all to take place prior to the discovery deadline of March 17, 2023, including three days of depositions scheduled by HCSD in Burlington, VT. There are at least three more 30(b)(6) deponents for the HCSD, in addition to the five who have already been produced and deposed, and two for the City, in addition to four already deposed. Shortly before the filing of this Motion, the Plaintiff noticed yet another deposition of a HCSD employee. The following is the current list of completed and scheduled depositions:

No.	Name	Deposed By	Deposition Date
1.	City 30(b)(6) deponents (2 individuals)	Plaintiff	TBD
2.	Hayley Champagne	Defendants	TBD

No.	Name	Deposed By	Deposition Date
	(unable to be located)		
3.	HCSD 30(b)(6) deponents: Karen Pitts Matthew Roman Daniel Sots	Plaintiff	March 15, 2023 (tentative)
4.	Gabby Villa	Plaintiff	March 10, 2023 (tentative)
5.	Mary O'Connell	Defendants	March 10, 2023 (tentative)
6.	McCuin, Shaun	Defendants	March 8, 2023
7.	Milligan, Jessie	Defendants	March 8, 2023
8.	Dow, Susan	Defendants	March 7, 2023
9.	Guilbault, Katie	Defendants	March 7, 2023
10.	Painting, William	Defendants	March 6, 2023 (tentative)
11.	Linsenmeir, Mark	Defendants	March 6, 2023
12.	Peterson, Barnes	Defendants	March 3, 2023
13.	Huss, Lydia	Defendants	March 2, 2023
14.	Linsenmeir, Maureen [Continuation from December 16, 2023, and November 10, 2022]	Defendants	February 28, 2023
15.	Herbert, Richard	Defendants	February 27, 2023
16.	O'Neill, Maura [Continuation from November 8, 2022]	Defendants	February 21, 2023
17.	Reale, Rachel – HCSD 30(b)(6) Designee	Plaintiff	January 27, 2023
18.	Stocks, Colleen – HCSD 30(b)(6) Designee	Plaintiff	January 27, 2023
19.	Calderigi, Carolyn – HCSD 30(b)(6) Designee	Plaintiff	January 27, 2023

<b>No.</b>	<b>Name</b>	<b>Deposed By</b>	<b>Deposition Date</b>
20.	Burke, Connie – HCSD 30(b)(6) Designee	Plaintiff	January 26, 2023
21.	Williams, Keisha – HCSD 30(b)(6) Designee	Plaintiff	January 25, 2023
22.	Johnson Van Wright, Sally – HCSD 30(b)(6) Designee	Plaintiff	January 25, 2023
23.	Linsenmeir, Maureen [Continued from November 10, 2022]	Defendants	December 16, 2022
24.	Moran, Ricky	Plaintiff	December 15, 2022
25.	Vedovelli, Lynn - City's 30(b)(6) Designee	Plaintiff	December 9, 2022
26.	Gee, Talia – City's 30(b)(6) - City's 30(b)(6) Designee	Plaintiff	December 9, 2022
27.	Mahoney, William - City's 30(b)(6) Designee	Plaintiff	December 9, 2022
28.	Tarpey, Phillip	Plaintiff	December 8, 2022
29.	O'Neill, Kate [Continuation]	Defendants	December 5, 2022
30.	Barbieri, John	Plaintiff	December 1, 2022
31.	Linnehan, Shanice	Plaintiff	November 21, 2022
32.	City of Springfield	Plaintiff	November 17, 2022
33.	Clapprood, Cheryl C.	Plaintiff	November 17, 2022
34.	Linsenmeir, Maureen	Defendants	November 10, 2022
35.	O'Neill, Kate	Defendants	November 9, 2022
36.	O'Neill, Maura	Defendants	November 8, 2022
37.	Belle-Isle, Julie	Plaintiff	October 21, 2022
38.	Moore, Lauren A.	Plaintiff	October 21, 2022
39.	Alekseyeva, Yekaterina	Plaintiff	October 19, 2022;
40.	Neill, Karleen RN	Plaintiff	October 19, 2022
41.	Ingham, Alfred T.	Plaintiff	October 11, 2022

No.	Name	Deposed By	Deposition Date
42.	Paquette, John	Plaintiff	October 5, 2022
43.	Phipps Walters, Gina	Plaintiff	September 30, 2022
44.	Sanchez, Maria	Plaintiff	July 21, 2022,
45.	Ferriter, Samantha	Plaintiff	August 18, 2022
46.	Russ, Alexandra	Plaintiff	August 18, 2022
47.	Walden, Joan	Plaintiff	August 18, 2022
48.	Strzempek, Robert	Plaintiff	August 10, 2022
49.	Couture, Maureen	Plaintiff	August 5, 2022
50.	Wisnaskas, Jennifer	Plaintiff	August 5, 2022
51.	Witkowski, Albert P.	Plaintiff	July 29, 2022
52.	Barrett, Eileen	Plaintiff	July 28, 2022
53.	Piscotanno, Sonia	Plaintiff	July 28, 2022
54.	Strout, Brian	Plaintiff	July 22, 2022
55.	McCoy, Monique	Plaintiff	July 12, 2022
56.	McNabb, Remington	Plaintiff	May 6, 2022
57.	Rodriguez, Sheila	Plaintiff	April 15, 2022
58.	Zanazanian, Moises	Plaintiff	March 17, 2022

13. A total of 34,641 pages of documents have been produced in this matter thus far with more information still to be located and produced, including materials that have just been requested of the HCSD.

14. In addition to the above, there are currently two discovery motions pending before this Court which could have an impact the discovery timeline. Document 109-119.

15. On January 19, 2023, the Plaintiff filed a motion to compel documents and testimony between the Defendants Zanazanian and City, an opposition and reply were also filed. Document 109-118.

16. On February 10, 2023, the Defendants filed a motion for leave to subpoena and depose Massachusetts Trial Court employees. Document No. 119. Without such relief the Defendants are prohibited from obtaining any discovery from the trial court.
17. The chief concern of the Defendants is that, considering the significant number of depositions still to be completed and the recent additional discovery requests on the HCSD, the Defendants will inadvertently fail to produce some material that is relevant to the case simply by innocent oversight and in spite of the Defendants' diligent efforts to search records and produce all of the requested materials or that the Defendants will discover the material so close to the discovery deadline that the Plaintiff will not have a fair opportunity to act on the information produced. It was the hope of counsel for the HCSD to perform a thorough poll of the relevant people at the HCSD to ensure there is not any other responsive information that has yet to be produced. That is a significant and time-consuming undertaking that has not yet been possible due to the other discovery work being performed in this case.
18. Furthermore, because of the massive amount of work involved in producing material in this case, an additional concern of the Defendants is that they will fail to identify some discovery necessary to their defense because they have expended so much time and effort producing documents and deponents for depositions. Defendants are also concerned about their inability to obtain all of the relevant medical and correctional records for the decedent during the last year of her life. It is necessary for the expert witnesses to have all of the relevant records.

WHEREFORE, for the foregoing reasons, the Defendants hereby respectfully request this Honorable Court extend its Scheduling Order as stated herein.

Respectfully submitted,  
The Defendant,  
Hampden County Sheriff's Department,  
By its Attorney,

Date: February 23, 2023

/s/ Thomas E. Day  
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Respectfully submitted,  
The Defendant,  
Moises Zanazanian,  
By his Attorney,

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Respectfully submitted,  
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Respectfully submitted,  
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City of Springfield and  
Sheila Rodriguez,  
By their Attorneys,

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CERTIFICATE PURSUANT TO LOCAL RULE 7.1

I certify that on February 23, 2023, prior to filing this motion, I conferred with counsel for the plaintiff in a good faith effort to resolve or narrow the issues raised herein without success.

/s/ Thomas E. Day

Thomas E. Day

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies of this document will be mailed, first-class mail, postage prepaid, to any non-registered participants on February 23, 2023.

/s/ Thomas E. Day

Thomas E. Day